

COMMITTEE ON GOVERNMENT REFORM

TOM DAVIS, CHAIRMAN



MEDIA ADVISORY

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Government Reform Committee to Examine Interior Department's Tribal Recognition Process

**What: Government Reform Committee oversight hearing:
"Betting on Transparency: Toward Fairness and Integrity in the Interior
Department's Tribal Recognition Process"**

When: May 5, 2004, 10:00 a.m.

Where: ROOM 2154, RAYBURN HOUSE OFFICE BUILDING

Background:

The purpose of the hearing is to assess the transparency and procedural fairness of the American Indian tribal recognition process administered by the Interior Department's Bureau of Indian Affairs (BIA). The integrity of the BIA process is of particular importance because recognized tribes receive exclusive federal funding for social programs, and because tribal lands are eligible to be taken into trust by the federal government. Tribal lands held in trust are exempt from most state and local laws, such as sales tax and gambling regulations. Recent recognition actions by the Assistant Secretary for Indian Affairs on acknowledgement petitions filed by Connecticut tribes have raised questions about the objectivity and transparency of the recognition process.

The Department of the Interior began to make recognition determinations with enactment of the Indian Reorganization Act of 1934. From 1934 to 1978, determinations were made on a case-by-case basis. In 1978, Interior established a regulatory process for recognizing Indian tribes. A group can initiate the BIA regulatory recognition process by submitting a letter of intent requesting recognition as a tribe. The petitioner must demonstrate that it meets the seven criteria set forth in the BIA regulations.

The Branch of Acknowledgement and Research within the BIA has responsibility for processing individual petitions and making a recommendation to the Assistant

Secretary for Indian Affairs. Upon receipt of an application, BIA notifies the governor and attorney general of the state where the petitioner is located and others having a potential interest in the determination. Once approved by the Assistant Secretary, the proposed finding is subject to comment by interested parties and informed parties. Interested parties include anyone who can establish a legal, factual or property interest in the acknowledgement determination and includes the governor and attorney general of the state where the petitioner is located, and may include the local governmental units that might be affected by the determination. Informed parties include anyone who requests an opportunity to participate.

The Assistant Secretary then considers the comments and additional information submitted and issues a final determination. A final determination is subject to requests for reconsideration by the petitioner or any interested party, which are considered by the Interior Board of Indian Appeals. The Board can either affirm the decision or direct the Assistant Secretary to issue a reconsidered determination. This becomes a final decision which is appealable to the federal courts.

Connecticut's Attorney General, municipalities subject to Indian land claims, and other interested parties are challenging final acknowledgement decisions regarding the Historical Eastern Pequot and the Schaghticoke tribes on various grounds. In both cases, final recognition was granted by the Assistant Secretary for Indian Affairs despite proposed findings by the BIA that the tribes did not meet one or more of the seven mandatory criteria for status as a sovereign Indian nation. One issue in both decisions is BIA reliance in varying degrees on state law "recognition" to cure what proposed BIA findings viewed as a fatal lack of evidence to support federal recognition under the mandatory regulatory criteria.

The State of Connecticut and affected communities also believe the BIA petition review process in these instances was not open and transparent enough to allow meaningful review and comment on voluminous documentary submissions by tribal applicants. Tribal backers supporting recognition as a means of investing in casino development have spent millions in support of acknowledgement petitions. Often never disclosed as "interested parties" in the proceedings, those financing recognition actions bring resources that states and cities find hard to match.

The Committee will hear from the Office of the Assistant Secretary for Indian Affairs of the Department of the Interior about the recognition process, as well as from the Interior Inspector General. The Committee will also hear from the Connecticut Attorney General, several Connecticut municipalities affected by the Schaghticoke and Eastern Pequot decisions, and the Schaghticoke Tribal Nation and the Historic Eastern Piquot Tribal Nation. Other witnesses will discuss their assessment of, and recommendations to improve, the BIA recognition process.

WITNESSES

Panel One:

The Honorable Richard Blumenthal, Attorney General, State of Connecticut

The Honorable Theresa Rosier, Counselor to the Assistant Secretary for Indian Affairs,
Department of the Interior

The Honorable Earl E. Devaney, Inspector General, Department of the Interior

Panel Two:

The Honorable Mark D. Boughton, Mayor, City of Danbury, Connecticut

The Honorable Rudy Marconi, First Selectman, Town of Ridgefield, Connecticut

Mr. Nicholas Mullane, First Selectman, Town of North Stonington, Connecticut

Ms. Marcia Flowers, Chairwoman, Tribal Council, Eastern Pequot Tribal Nation

Mr. Richard L. Velky, Chief, Schaghticoke Tribal Nation

Panel Three:

Mr. Jeffrey Benedict, Connecticut Alliance Against Casino Expansion

Mr. Wayne R. Smith, former Deputy Assistant Secretary for Indian Affairs, Department
of the Interior

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